

1 On January 23, 2007, this Court sentenced Rizzolo and the Power Company. Sentencing
2 Minutes, ECF Nos. 39 - 40.

3 On February 1, 2007, this Court entered the Judgments In A Criminal Case (J&C) on
4 Rizzolo and the Power Company. J&C, ECF Nos. 42 - 43.

5 **The Henrys' Restitution Interest**

6 On September 6, 2007, Amy Henry and Kirk Henry filed a third-party Petition (ECF No.
7 68) and entered into a Settlement Agreement, Stipulation for Entry of Order of Forfeiture, and
8 Order (ECF No. 68) with the United States, agreeing to the forfeiture of the forfeited Property
9 and recognizing the Henrys' interest of \$9,000,000 plus interest.

10 On September 7, 2007, this Court determined the Henrys' interest was \$9,000,000 plus
11 interest (ECF No. 70).

12 **The United States Internal Revenue Service's Interest**

13 On February 2, 2008, the United States through the Internal Revenue Service (IRS) filed
14 a Petition, Settlement Agreement, Stipulation for Entry of Order of Forfeiture, and Order for
15 taxes, accruals, and interest (ECF No. 151).

16 On February 8, 2008, this Court determined the IRS's interest was \$2,847,380.67 plus
17 accruals and interest (ECF No. 158).

18 Subsequently, the First Amended Final Order of Forfeiture (ECF No. 222) and Second
19 Amended Final Order of Forfeiture (ECF No. 242) were entered.

20 **Substitution - \$50,000**

21 On July 1, 2015, the United States filed a Motion to Substitute and to Forfeit Property of
22 Power Company, Inc., (Motion to Substitute) (ECF No. 549) to be used towards satisfaction of
23 the Power Company's forfeiture money judgment. On October 27, 2015, this Court entered the
24 Order (ECF No. 555) authorizing the substitution and forfeiture of \$50,000 (property) pursuant
25 to 18 U.S.C. § 1963(m).

26 The Federal Bureau of Investigation took the property into custody (ECF No. 556).

1 This Court finds the United States of America published the notice of forfeiture in
2 accordance with the law via the official government internet forfeiture site, www.forfeiture.gov,
3 consecutively from November 14, 2015, through December 13, 2015, notifying all potential third
4 parties of their right to petition the Court. Notice of Filing Proof of Publication, ECF No. 558.

5 On December 3, 2015, Joseph Leo VanCoutren was served with the Order and the Notice
6 via first class regular mail and certified return receipt requested mail. Notice of Filing Service of
7 Process, ECF No. 557.

8 On December 9, 2015, the Power Company and Frederick John Rizzolo were personally
9 served through their attorney, Sigal Chattah, with the Order and the Notice. Notice of Filing
10 Service of Process, ECF No. 559.

11 On December 9, 2015, the Power Company was personally served through its registered
12 agent, John E. Dawson, with the Order and the Notice. Notice of Filing Service of Process, ECF
13 No. 559.

14 On December 10, 2015, the Power Company and Frederick John Rizzolo were personally
15 served through their attorney, Anthony P. Sgro, with the Order and the Notice. Notice of Filing
16 Service of Process, ECF No. 559.

17 On December 11, 2015, the Power Company and Frederick John Rizzolo were personally
18 served through their attorney, Bud Hafer, with the Order and the Notice. Notice of Filing Service
19 of Process, ECF No. 559.

20 On December 10, 2015, Frederick John Rizzolo was personally served through his
21 attorney, Dominic P. Gentile, with the Order and the Notice. Notice of Filing Service of Process,
22 ECF No. 559.

23 On December 11, 2015, Frederick John Rizzolo was personally served through his
24 attorney, Margaret W. Lambrose, with the Order and the Notice. Notice of Filing Service of
25 Process, ECF No. 559.

26 ///

1 Herbert Sachs could not be served on behalf of Frederick John Rizzolo with the Order
2 and the Notice because he died on February 25, 2015. Notice of Filing Service of Process, ECF
3 No. 559.

4 On December 10, 2015, Kirk Henry was personally served through his attorneys, Donald
5 J. Campbell and Philip R. Erwin, with the Order and the Notice. Notice of Filing Service of
6 Process, ECF No. 559.

7 **Priority of Petitions**

8 The priority of distribution of the \$50,000 is as follows:

- 9 1. The restitution of \$9,000,000 plus interest to Kirk and Amy Henry (ECF Nos. 42, 43,
10 and 70);
- 11 2. The restitution of \$1,734,000 plus accruals to the IRS (ECF Nos. 42 and 151);
- 12 3. The fines of \$750,000 plus interest (ECF Nos. 42 and 43);
- 13 4. The forfeiture of \$4,250,000 plus interest; and
- 14 5. The IRS tax lien against Rizzolo for the 2006 individual income taxes of
15 \$1,032,535.26 plus accruals ECF No. 151).

16 This Court finds no petition was filed herein by or on behalf of any person or entity and
17 the time for filing such petitions and claims has expired.

18 This Court finds no petitions are pending with regard to the assets named herein and the
19 time for presenting such petitions has expired.

20 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all
21 right, title, and interest in the property hereinafter described is condemned, forfeited, and vested
22 in the United States of America:

23 \$50,000 (property); and

24 that the United States recover from Power Company the forfeiture money judgment of
25 \$4,250,000; and

26 ///

1 the forfeiture of the money judgment and the property is imposed pursuant to Fed. R.
2 Crim. P. 32.2(b)(4)(A) and (B); Fed. R. Crim. P. 32.2(c)(2); 18 U.S.C. § 1963(a)(1), (a)(2),
3 (a)(3), (l)(7) and (m); that the money judgment shall be collected; and that the property and the
4 collected amount shall be disposed of according to law.

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that distribution of the
6 \$50,000 goes to Kirk and Amy Henry towards the restitution owed of \$9,000,000 plus interest.

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any and all forfeited
8 funds, including but not limited to, currency, currency equivalents, certificates of deposit, as well
9 as any income derived as a result of the United States of America's management of any property
10 forfeited herein, and the proceeds from the sale of any forfeited property shall be disposed of
11 according to law.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Clerk send copies
13 of this Order to all counsel of record and three certified copies to the United States Attorney's
14 Office, Attention Daniel D. Hollingsworth, Asset Forfeiture Unit.

15 DATED this 29th day of Dec, 2016.

16
17 

18 UNITED STATES DISTRICT JUDGE
19
20
21
22
23
24
25
26

PROOF OF SERVICE

A copy of the foregoing was served upon counsel of record via Electronic Filing on August 12, 2016, and by the below identified method of service:

First Class Mail:

Joseph Leo Van Coutren
2855 Montair Avenue
Long Beach, CA 90815

/s/ Michelle C. Lewis
MICHELLE C. LEWIS
Paralegal Specialist